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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Department of Environment and Conservation
Division:	Solid Waste Management
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Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1200-01-07	Solid Waste Processing and Disposal
Rule Number	Rule Title
1200-01-07-.01	Solid Waste Disposal Control System: General
1200-01-07-.09	Waste Disposal Reduction Goal
1200-01-07-.10	Convenience Centers/County Public Collection Receptacles

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule Chapter 1200-01-07
Solid Waste Processing and Disposal

Amendments in redline form

Paragraph (2) of Rule 1200-01-07-.01 Solid Waste Disposal Control System: General is amended by adding the following definitions alphabetically to the definitions at paragraph (2).

“Calculated controlled generation” means the total tonnage of Class I, Class III, and Class IV disposal and all recycled materials directly controlled by local governments.

“Controlled recyclable material” means any material reclaimed, recovered or recycled by a covered local government’s public collection system.

“Municipal Solid Waste” (MSW) means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that “municipal solid waste” does not include the following:

- (a) Radioactive waste;
- (b) Hazardous waste as defined in T.C.A. §68-212-104;
- (c) Infectious wastes;
- (d) Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and
- (e) Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

“Local government” means any county, municipality, city or other political subdivision of this state, including any school districts or school systems created thereby.

“Material derived fuels” means materials taken from a waste stream such as scrap tires or wood waste that can be used in the production or use as fuel for energy recovery.

“Maximum practicable reduction” means the point at which no further reasonable reduction is capable as determined by qualitatively reviewing waste reduction, recycling systems, current markets, and economic trends.

“Waste to energy facility/combustor” means a facility where recovered municipal solid waste is converted into a usable form of energy, usually through combustion.

Regulatory Authority: T.C.A. §§ 68-211-102(a), 68-211-105 (b), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), and 68-211-111(d)(1).

The Table of Contents to Chapter 1200-01-07 Solid Waste Processing and Disposal shall be amended by changing the title of Rule 1200-01-07-.09 from “Waste Disposal Reduction Goal” to “Waste Reduction Goal”.

Rule 1200-01-07-.09 Waste Disposal Reduction Goal is amended by deleting the current rule in its entirety and substituting the following, so that, as amended, the rule shall read as follows:

1200-01-07-.09 Waste ~~Disposal~~ Reduction Goal

(1) General Purpose ~~and Applicability~~

- ~~(a) — The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at municipal solid waste disposal facilities and incinerators by December 31, 2003, as measured on a per capita basis within Tennessee by weight. The goal shall also apply to each municipal solid waste region; but does not apply to individual disposal facilities or incinerators. Individual disposal facilities or incinerators are used only as measurement locations for assessing the achievement of a region’s waste reduction efforts. As an alternative to calculating the waste reduction goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the Department and approved by the Municipal Solid Waste Advisory Committee.~~

- (a) The goal of the state is to increase recycling and reduce annually the amount of solid waste going to Class I, Class III, and Class IV landfills. This goal sets the purpose for this rule.
- (b) Any generator as described in this subparagraph of Municipal Solid Waste shall reduce annually its waste going to landfills to reach a level of the maximum practicable reduction.
 - 1. Municipalities with a population greater than or equal to twenty thousand (20,000) people according to the most current U.S. Census Estimated Population will meet the quantitative recycling goal as described in subparagraph (d) of this paragraph.
 - 2. Municipalities with a population less than twenty thousand (20,000) people according to the most current U.S. Census Estimated Population will meet the qualitative goal as described in subparagraph (e) of this paragraph.
 - 3. County governments with a population greater than or equal to twenty-five thousand (25,000) people according to the most current U.S. Census Estimated Population are required to meet the quantitative recycling goal as described in subparagraph (d) of this paragraph.
 - 4. County governments with a population less than twenty-five thousand (25,000) people according to the most current U.S. Census Estimated Population will be required to meet the qualitative goal as described in subparagraph (e) of this paragraph.
 - 5. State government and its institutions are required to meet this goal. Progress will be determined through a state departmental survey as described in subparagraph (f) in this paragraph to benchmark recycling activity.
 - 6. Private entities are required to meet this goal. Progress will be determined through a private sector survey as described in subparagraph (f) in this paragraph to benchmark recycling activity.
 - 7. Individuals are considered under their respective jurisdictional government.
- (c) For the purpose of this rule, the term major and minor covered local governments shall mean:
 - 1. Major covered local governments shall mean all of the local governments described in parts (b)1 and 3 of this paragraph and their agencies, boards, and other subdivisions.
 - 2. Minor covered local governments shall mean all of the local governments described in parts (b)2 and 4 of this paragraph and their agencies, boards, and other subdivisions.
- (d) Quantitative Recycling Goal. All major covered local governments shall meet a 20% quantitative recycling goal and reduce waste going to landfills annually. They shall accomplish this goal within five (5) years of the effective date of this rule and shall be measured annually thereafter using a recycling ratio formula as noted below:

$$\% \text{ Recycled} = \frac{\text{Controlled recyclable material collected}}{\text{Calculated controlled generation}}$$
- (e) Qualitative Recycling Goal. Minor covered local governments identified by the criteria in parts (b)2 and 4 of this paragraph will meet a qualitative goal based on services offered until such time as the minor covered local government's population surpasses the

population benchmark in part (b)1 or 3 of this paragraph. This will be their goal. At that time the minor covered local government having surpassed the population threshold, will then be considered a major covered local government and be required to meet the quantitative recycle goal listed in subparagraph (d) of this paragraph within two (2) years.

1. The Department shall evaluate covered local governments defined in part (c)2 of this paragraph to determine if they are qualitatively equivalent to similar covered local governments based upon elements of an integrated solid waste management system. This assessment will be an objective comparison based on:
 - (i) Waste reduction and recycling programs and systems;
 - (ii) Waste reduction, recycling, and solid waste education programs and systems;
 - (iii) Waste collection and handling systems; and
 - (iv) Solid waste program budget and staffing.
 2. The Best Management Practices guidance document noted in subparagraph (2)(a) of this rule, once adopted, will also be used as further guidance during the qualitative review process.
 3. The methodology shall make comparisons between covered local governments that are as similar as possible in terms of population and socio-economic level to determine if the covered local government qualitatively meets the goal.
- (f) The Department shall complete a survey of the private sector and the State agencies, to be conducted in years ending in zero (0) and five (5), to establish initially a baseline index for waste reduction and recycling activities in the private sector and the State agencies and then to monitor change.
1. These surveys will:
 - (i) Be an index type survey based on Standard Industrial Classification (or SIC) code sectors or equivalent performed by the Department or its representative.
 - (ii) Identify and report barriers that interfere with the private sector's attempts to recycle.
 - (iii) Be designed to facilitate data collection and reporting.
- (g) The Department shall review the goal on years ending in zero (0) and five (5) and recommend amendments to this rule if needed to provide a challenging, but reasonable, goal.
- (h) All Class I, III, and IV landfills shall submit reports to the Department as required by paragraph (5) of this rule.

(2) **Waste Reduction ~~Methods~~**

- ~~(a) The Department may consider a variety of options that a region shall take into account in meeting the twenty-five percent (25%) goal. As used in rule 1200-1-7-.09, "municipal solid waste" (MSW) means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a~~

~~Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that “municipal solid waste” does not include the following:~~

- ~~1. Radioactive waste;~~
- ~~2. Hazardous waste as defined in T.C.A. §68-212-104;~~
- ~~3. Infectious wastes;~~
- ~~4. Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and~~
- ~~5. Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.~~

- (a) The Department shall prepare waste reduction and recycling best management practices guidance that covered local governments may implement as needed to attain the statewide waste reduction and local recycling goals.

- ~~(b) Waste reduction methods or activities include, but are not limited to, the following:~~

- ~~1. Any “municipal solid waste” diverted from a Class I disposal facility to a Class III or Class IV disposal facility as provided under rules 1200-1-7-.01 through 1200-1-7-.04 adopted pursuant to the provisions of T.C.A. Title 68, Chapter 211, Part 4.~~

- (b) Class III and Class IV materials. Materials received at Class III or Class IV landfills are not considered toward the waste reduction goal unless the materials are recycled or used for beneficial use activities.

- (c) Energy recovery and production. Material derived fuels redirected to waste-to-energy facility/combustors for energy recovery and production shall be considered toward the goal.

1. To calculate the tons of waste reduction the following formula shall apply:
$$T^I - T^O = T^R$$

Where:
 T^I = tons of raw material input into the energy recovery system;
 T^O = tons of residual material output from the energy recovery system; and
 T^R = tons reduced.

2. Waste incinerated without energy recovery and for the purpose of volume reduction will receive no credit.

- ~~2-(d) Composting of “municipal solid waste”. The composting of municipal solid waste must have a market for such composted product in order to be considered as a method for waste reduction. Only the portion of composted municipal solid waste that is sold or beneficially used may be counted as recycling or towards the waste reduction goal.~~

- ~~3-(e)~~ Recycling. Recycling constitutes a method of waste reduction so long as the recovered materials are marketed for recycling, or are stored for recycling at a solid waste management facility and at least seventy-five percent (75%) of the stored material must be marketed within the succeeding twelve (12) months. The following processes shall not be considered as marketing of recyclable materials nor counted toward the ~~25%~~ goal:

- ~~(f)1.~~ Collection or material handling in preparation for buyers ~~pending market~~.

~~(ii)2.~~ Storage of unprocessed or processed materials. Unprocessed municipal solid waste is not considered as being recyclable **pending market**.

4.(f) Source reduction of "municipal solid waste". Source reduction measures as a method of waste reduction may include industrial process modification, feedstock substitutions or improvements in feedstock purity, various housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.

~~(i)1.~~ Source reduction may also include reduction in the amount and toxicity of waste generated by residential and commercial sectors, through such measures as product substitution, home composting and recycling.

~~(ii)2.~~ Source reduction may also be achieved through the encouragement of consumer habits that include the selection of products that have reduced and recyclable packaging, and the re-use of durable goods.

~~5. Problem waste diversion. The diversion of waste tires, used oil, lead-acid batteries, paints and other problem waste, as determined and identified by the Department, from a Class I disposal facility for recycling constitutes waste reduction. Problem wastes diverted from a Class I disposal facility and stored for recycling at a municipal solid waste management facility until marketed qualifies as waste reduction when diverted.~~

6.(g) Mulching of "municipal solid waste". ~~Any non-treated wood waste that may be converted to a mulch must have a market in order to be considered as a method for waste reduction.~~ Only the portion of mulch made from municipal solid waste that is sold or beneficially used may be counted as recycling or towards the waste reduction goal.

(h) Vermicomposting. Large scale vermicomposting operations that utilize windrows or raised bed/flow through systems are acceptable methods of waste reduction. Smaller scale containers may be used for residential operations.

(3) **Region's** Waste Reduction Plan

(a) All covered local governments shall prepare and implement a waste reduction plan. Municipalities along with counties shall submit a copy of their plan to the municipal solid waste planning region creating an aggregated copy of the plan for the municipal solid waste planning region for submission to the Department.

~~(a)(b)~~ A ~~region's~~ covered local government's waste reduction and recycling plan shall be consistent with T.C.A. § 68-211-815, the municipal solid waste planning region's plan, the guidelines issued by the ~~Division~~ Department, and the State's solid waste reduction plan. Such ~~a~~ plan shall explain the ~~region's~~ covered local government's waste reduction and recycling methods, strategies, and timetables for implementation. The ~~region~~ covered local government may use any combination of methods; ~~however, the following methods or practices will not be considered in the calculation for the region's waste reduction plan:~~ as described in subparagraphs (2)(b) through (h) of this rule or in the best management practices guidance noted in subparagraph (2)(a) of this rule.

~~1. Incineration;~~

~~2. Unmarketed municipal solid waste compost;~~

~~3. Recovered materials (other than problem wastes) stored for recycling without being marketed as prescribed by rule 1200-1-7-.09(2)(b)3; and~~

~~4. Illegal or unauthorized storage or disposal of municipal solid waste.~~

- ~~(b) The twenty-five percent (25%) goal applies to only the waste that has been going to Class I landfills or municipal solid waste incinerators. Measurements of waste are to be based on the amount of waste entering a disposal facility prior to combustion or landfilling. Materials recovered or collected for recycling at these facilities prior to combustion or landfilling shall be weighed and deducted from the total amount being disposed.~~
- (c) ~~The region shall present its calculation of the twenty-five percent (25%) reduction on a per capita basis or the economic growth basis to be prescribed by the Department in accordance with paragraph (1) of this rule. The county waste reduction plan shall be the aggregate of the county government and all the covered local governments' waste reduction plans within the county.~~
- (d) ~~The region plan shall utilize the base year of 1995 for measuring waste reduction unless a region can demonstrate that the 1995 data is clearly in error. A region may receive credit toward the waste reduction goal from recycling and source reduction programs prior to 1995, but no earlier than 1985. The region shall notify in writing the Division Director of such an error and request approval of any adjustment to the 1995 data. All municipal solid waste planning regions shall submit a waste reduction plan to the Department that is an aggregate of all covered local governments' plans within the planning region.~~
- (e) Waste reduction plans in accordance with T.C.A. § 68-211-815 will also contain at a minimum but not limited to:
1. Specific waste reduction programs currently offered;
 2. A schedule of waste reduction programs and services to be offered with the implementation dates;
 3. An ongoing plan for marketing commodities collected for recycling;
 4. An assessment of infrastructures needed to implement the plan; and
 5. A plan to manage debris during disaster situations that provides for waste reduction, recycling, and diversion of material from landfills resulting from such disasters.
- ~~(e)(f) By March 31 of each year, each region~~ Each municipal solid waste planning region shall submit the aggregated waste reduction plan and an annual progress report to the ~~Division~~ Department in accordance with paragraph (5) of this rule. Pursuant to T.C.A. §§ 68-211-816 and 68-211-871, such reports shall include, at a minimum, the amount and type of recycled materials collected in the region.
- (g) To implement the new waste reduction and recycling goal, the Department shall require an update of all solid waste plans to be completed by December 31, 2015. This update will address all changes relating to the waste reduction and recycling goals defined in this rule.
- (h) This waste reduction plan shall be a component of the region's municipal solid waste plan.

(4) ~~Qualitative Assessment Methods~~ Enforcement

- (a) ~~An assessment method shall be developed by the Department of Environment and Conservation and approved by the Municipal Solid Waste Advisory Committee. This assessment will be applied to Municipal Solid Waste Planning Regions that failed to meet the twenty five percent (25%) waste reduction and diversion goal stated in T.C.A. §68-211-861(a) according to the 2003 Annual Progress Report submitted to the Division. The~~

~~qualitative assessment will objectively assess the activities and expenditures of both the Municipal Solid Waste Planning Region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region. Except as provided in subparagraph (b) of this paragraph, failure to comply with the applicable requirements of this rule will subject any entity to the penalties provided by T.C.A. §§ 68-211-816 and 68-211-861.~~

(b) ~~The qualitative assessment shall be done in the following two steps:~~ Covered local governments failing to meet the waste reduction or recycling goal after 2015 shall be reviewed by the Department. A determination will be made based on the following as to the course of action required by the covered local government to attain the goal.

1. ~~The Department shall use the waste and diversion reported by the solid waste region for the most current reporting period to determine whether in that year twenty-five percent of the solid waste generated in that year was either diverted from class I facilities or recycled. If it was, the region meets the qualitative assessment and the department does not proceed to the next step. Covered local governments with Recycling Ratios of 15%-19% as calculated by subparagraph (1)(c) of this rule. The covered local government will be notified of non-compliance. The Department shall qualitatively assess covered local governments failing to meet the established statewide waste reduction and local recycling goals. The Department shall determine and recommend waste reduction programs, best management practices, and activities to be implemented to improve the covered local government's waste reduction efforts. The covered local governments shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.~~

2. The Department shall evaluate the programs in those regions that do not satisfy subparagraph (2)(a) above to determine if they are qualitatively equivalent to those that did meet the 25% recycling and diversion goal by evaluating at least the following solid waste program activities for the most current reporting period, giving the first two items the greatest weight:

(i) ~~waste reduction and recycling programs and systems;~~

(ii) ~~waste diversion programs and systems;~~

(iii) ~~solid waste education programs and systems;~~

(iv) ~~waste collection and handling systems; and~~

(v) ~~solid waste program budgets and staffing.~~

~~The methodology shall make comparisons between regions that are similar as possible in terms of population and social-economic level to the region that failed to meet the goal. Covered local governments with Recycling Ratios of 10% -14% as calculated by subparagraph (1)(c) of this rule. The covered local government shall be notified of non-compliance. The Department shall direct the local development district to provide a comprehensive Needs Assessment of all solid waste systems under the control of that covered local government identifying deficiencies in their solid waste programs. The Department, based on the Needs Assessment, will make recommendations of programs, best management practices, and activities to be implemented to improve waste reduction efforts. The covered local government shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local~~

government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.

3. Covered local governments with Recycling Ratios of 0%-9% as calculated by subparagraph (1)(c) of this rule. The covered local government shall be notified of non-compliance. The Department shall direct the local development district to provide a comprehensive Needs Assessment of all solid waste systems under the control of the covered local government identifying deficiencies in their solid waste programs. The Department, based on the Needs Assessment, will make recommendations of programs, best management practices, and activities to be implemented to improve waste reduction efforts. The Department shall set quarterly milestones to monitor the covered local government's progress towards the goal. Quarterly progress reports shall be made to the Department updating the milestone progress. The covered local government shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.

(5) Reporting

- (a) Class I, Class III, and Class IV landfills shall report to the Department, on forms provided by the Department, the origin and tonnage (construction and demolition materials converted from cubic yards at 4 cubic yards per ton) on a quarterly basis within thirty (30) days after the end of the quarter.
- (b) All municipal solid waste planning regions shall submit by March 31st in the calendar year immediately following the reporting year their annual progress report. The covered local government may request in writing prior to the due date an additional thirty (30) days to submit all required information. Additional time may be granted by the Commissioner for good cause shown.

Regulatory Authority: T.C.A. §§ 68-203-103(b)(3), 68-211-102(a), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d)(1) and (2), 68-211-851(a), 68-211-852, 68-211-853, 68-211-861.

Paragraph (1) of Rule 1200-01-07-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current paragraph and substituting the following language, so that, as amended, the paragraph shall read as follows:

(1) Purpose

- (a) This rule shall establish the minimum level of service which every county must provide in order to assure that all residents of a county are provided with collection and disposal service.
- (b) This rule shall establish minimum standards for the design and operation of convenience centers if such service is selected by a County.
- ~~(c) This rule shall establish the economic index and local matching rates for grant assistance to counties to establish and upgrade convenience centers.~~
- ~~(d)~~(c) This rule shall establish requirements for operation and use of county public collection receptacles for municipal solid waste.

Paragraph (5) of Rule 1200-01-07-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current paragraph in its entirety and renumbering the remaining paragraphs in the Rule.

~~(5) Economic Index~~

- ~~(a) Matching rates for convenience center grants shall be determined using the mean of a county's rank for equalized property tax generation and per capita income. Property tax generation shall be the equalized value of property as published in the Tennessee State Tax Aggregate Report by the State Board of Equalization. Per capita income shall be the income figure published by the United States Department of Commerce, Bureau of Economic Analysis.~~
- ~~(b) The Department shall issue annually in March the County ranking based on this mean.~~
- ~~(c) The local share required to match grant funds shall be 10% for those counties in the lower one-half (½) of the economic index. Those counties in the upper one-half (½) of the economic index shall be required to provide a 20% local match.~~

Subparagraph (a) of paragraph (6) of Rule 1200-01-07-.10 Convenience Center/County Public Collection Receptacles is amended by deleting the current subparagraph and substituting the following language, so that, as amended the subparagraph shall read as follows:

- (a) ~~By March 31 of each year, e~~Each county which maintains and uses receptacles for the collection of municipal solid waste from the general public at sites separate from a convenience center shall ~~develop a plan for the elimination or conversion to manned convenience centers as defined in paragraph (2) of Rule 1200-01-07-.01 by June 30, 2015 to be implemented by June 30, 2020. The county will include the following information as part of the Solid Waste Region's municipal solid waste planning region's annual report (which is submitted to the Department) until said collection receptacles are eliminated or converted:~~
1. The number of receptacles in the County;
 2. The location of all receptacles ~~by street address and geo-code (longitude and latitude);~~
 3. Collection times for such receptacles; and
 4. Operation procedures and security measures adopted and enforced to maintain and service the receptacles and to ensure the protection of public health and safety. Such information ~~is required by~~ this part must be in the form of a narrative manual and meet the minimum requirements of subparagraph (b) ~~of this paragraph.~~

Regulatory Authority: T.C.A. §§ 68-203-103(b)(3), 68-211-102(a), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d)(1) and (2), 68-211-105(b), 68-211-851(a), and 68-211-853.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Atchison					
John L. Barker					
Bob Booker					
Elaine Boyd					
Melissa Bryant					
Kenneth Donaldson					
Knox Horner					
Gregory Nail					
Sherry Sloan					
Albert F. Smith, III					
Julia Williams					
Glenn Youngblood					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Solid Waste Disposal Control Board on , and is in compliance with the provisions of T.C.A 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/17/09

Rulemaking Hearing(s) Conducted on: (add more dates). 09/01/09

Date: _____

Signature: _____

Name of Officer: Kenneth Donaldson

Title of Officer: Solid Waste Disposal Control Board Chairman

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on:

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: In paragraph (2) of Rule 1200-01-07-.01, the terms “maximum practicable reduction”, “recycling”, “reduction”, “covered local governments”, “covered materials,” and “covered recycling” used in the draft rule language need to be clarified. The terms “air curtain destructors” and “open pit burners” need to be added to the rule definitions. The terms “e-scrap”, “material derived fuel”, and “waste to energy facility/combustor” need to be removed if not present in the rule language.

Response: A definition for the term “Maximum practicable reduction” has been added to the rules. The definition for the term “Calculated Controlled Generation” has been revised in paragraph (2) of Rule 1200-01-07-.01 and the term is being used in the denominator of the equation in subparagraph (1)(d) of Rule 1200-01-07-.09. We believe that the term “recycling” is adequately defined in the current rules and does not need to be modified for the purposes of these rules. The term “Covered local governments” has been better described in subparagraph (1)(b) of Rule 1200-01-07-.09. A definition for the term “controlled recyclable material” has been added to Rule 1200-01-07-.01 to clearly communicate the intent of the rule.

The terms “air curtain destructors” and “open pit burners” are not referenced in the rule and have been removed from the rule. The definition of term “E-scrap” has been removed from rules and no longer needed since proposed Table 1 has been moved to a guidance document. “Waste to energy facility/combustor” is used in the rule and needs to be retained.

Comment: A commenter requested the insertion of the phrase “... to increase recycling and reduce annually...” to subparagraph (1)(a) of Rule 1200-01-07-.09.

Response: The phrase was added as requested.

Comment: There are mixed comments related to the goals contained in subparagraph (1)(d) of Rule 1200-01-07-.09. About equal numbers say the goal is too easy and needs to be raised. Others suggest that the goal may be too difficult for smaller local governments and may require local governments to implement costly, “untested” recycling programs. A qualitative approach should be taken in measuring the goal for local governments. A numeric goal should be added to subparagraph (1)(a) of Rule 1200-01-07-.09.

Response: The Solid Waste Advisory Committee reviewed methodologies recommended by the Waste Reduction Task Force. These concepts were then recommended to the Department as the ones with the most merit and sustainability for Tennessee.

As a compromise the rule was amended by revising population limits, i.e. the 3,000 population benchmark was raised to populations of 20,000 or above for major covered local government (municipal) threshold and populations of 25,000 or above was added for the major covered local government (county) threshold.

Minor covered local governments (municipal or county) with populations less than the threshold will be qualitatively reviewed until such time as the population threshold is exceeded and changes their status. Major covered local governments failing to meet the quantitative goal will be qualitatively reviewed.

The intent of subparagraph (1)(a) of Rule 1200-01-07-.09 is to provide the overall purpose of the rule and to establish an ongoing accomplishment to be achieved.

Comment: There is general concern about how efforts toward the 20% recycling goal would be calculated in subparagraph (1)(d) of Rule 1200-01-07-.09, and what materials would be/should be included in

the formula. Covered local governments may not be able to meet the 20% recycling goal without private sector data being included. Source reduction and reuse efforts should be included in the proposed formula. Broaden the controlled recyclable materials that can be included in the goal and considered recycling. Increase the recycling goal to 25%.

Response: The Solid Waste Advisory Committee reviewed methodologies recommended by the Waste Reduction Task Force. These concepts were then recommended to the Department as the ones with the most merit and sustainability for Tennessee.

After multiple layers of review of the proposed recycling goal, the continued sentiment is that 20% is both challenging and reasonable. The recycling goal represents a specific segment of the waste stream – predominately post consumer, locally controlled, recycled material.

The proposed recycling formula allows for an automatic increase to the recycling ratio when disposal decreases taking into account source reduction and reuse efforts. However, decreases in reported landfill disposal are not necessarily indicative of true reduction rather more of economic downturns, business shutdowns, bad reporting, out of state disposal, and illegal burning.

New population thresholds for the goal have been proposed. The revised population thresholds should mitigate concerns noted for smaller governments while focusing efforts on the larger generators. The rule was changed in compromise by revising the population limits from the 3,000 threshold for all covered local governments to new definition for covered local governments to be populations of 20,000 or above (municipal) and 25,000 or above (county). All generators of municipal solid waste in Tennessee have been identified and have been described in the paragraph (1) of Rule 1200-01-07-.09 to contribute to the goal.

The proposed language provides a more realistic view of what is actually occurring in the residential/post consumer recycling sector. The Waste Reduction Task Force and Solid Waste Advisory Committee reviewed these methodologies and recommended that local governments only receive credit for programs and materials over which they have direct control.

Private industry waste streams are not included in the numerator or denominator of the equation in subparagraph (1)(d) of Rule 1200-01-07-.09 and are counted in the local government's recycling goal, unless the local government manages (including contracted services) the waste or recycling streams.

Comment: The purpose and makeup of private business sector/industry survey in subparagraph (1)(f) of Rule 1200-01-07-.09 needs to be clarified. Suggestions for inclusion in the survey were consideration for economic setbacks, efforts towards waste reduction, and enforcement.

Response: The rule defines the sectors to be surveyed using the Standard Industrial Codes or equivalent index. The survey will evaluate a sampling of the State's private sector. Barriers to recycling will be identified and methods for overcoming the barriers will be formulated. Survey purpose, scope and participants have been described in subparagraph (1)(f) of Rule 1200-01-07-.09. When the survey is developed, suggestions will be incorporated to the maximum extent possible.

Comment: The removal of private industry recycling efforts from the solid waste planning region's efforts as contained in subparagraph (1)(f) of Rule 1200-01-07-.09 would make goal attainment too difficult for the local governments to achieve.

Response: Waste collected from private entities may be included only if this waste stream is publically managed. This methodology allows local governments to stand on their own accomplishments and promotes the concept that all Tennesseans should participate in efforts to attain the goal.

The Waste Reduction Task Force and the Solid Waste Advisory Committee in unity and full agreement recommended this methodology to the Department.

- Comment: Part (1)(b)5 of Rule 1200-01-07-.09 contains a reference to subparagraph (1)(d) should reference subparagraph (1)(f) of Rule 1200-01-07-.09.
- Response: The correct reference has been added to the rule.
- Comment: The Four Tier goal and table contained in paragraph (1) of Rule 1200-01-07-.09 appears to be costly and limits the choice of local government in the development of their solid waste systems. Several of the tier points would be an undue burden on local governments and the detail lacks flexibility. This would be better served in a policy document used for guidance by local governments.
- Response: The four tier goal and table have been removed and will be included in the proposed best management practice guidance document as noted in subparagraph (2)(a) of Rule 1200-01-07-.09. Best management practices in this four tier goal and table are guidance practices that will help local governments achieve the most efficient, cost effective programs relating to recycling and waste reduction. Practices are voluntary; the local government may implement any, all or none to achieve the waste reduction goal.
- Comment: Several concerns were expressed regarding the preparation of Best Management Practices, referred to in subparagraph (2)(a) of Rule 1200-01-07-.09, and as to how these will be determined, what entity will be responsible for them and timetable for their development along with incentives to promote these practices, and whether the public will be involved in the development process.
- Response: By the effective date of these rules, the Department will prepare the guidance documents which will be an ongoing "living" document based on current technologies and practices.
- Public participation will be solicited. The development of the best management practices document will be a part of this rulemaking. The rule allows local governments to consider any and all best management practices to achieve the goal. Methods of solid waste management are achieved at a local level and need to be chosen and selected by the covered local governments in their efforts to achieve the recycling goal.
- Comment: There was general support for discontinuing the practice of allowing Class III/IV construction and demolition material to count toward the current waste reduction and diversion goal. Discontinuance of this "loop-hole" in subparagraph (2)(b) of Rule 1200-01-07-.09 further promotes the recycling of construction and demolition material. There was also a suggestion that there be priority placed on removing re-useable material prior to using class III/IV material as alternate daily cover.
- Conversely, several respondents wanted to maintain the status quo and keep class III/IV construction and demolition material counting towards a waste diversion goal as is the current practice. A further stated concern was the amount of money invested by local governments in Class III/IV landfill infrastructure since 1991 to meet current goal. Another concern is that the removal of class III/IV material diversion from goal circumvents the existing statutes.
- Response: The rule removes the credit for diversion of construction and demolition material going to class III/IV landfills. The Waste Reduction Task Force and the Solid Waste Advisory Committee agreed that landfilling is landfilling and recommended to the Department that this credit should be removed. Goal levels and acceptable methods of waste reduction were identified and included in these rules. Furthermore, Tennessee is the only state that allows disposal of materials to be treated as recycling/diversion. This change will correct a long standing loop hole.
- The recycling and reuse of this type of material has shown to have cost avoidance savings, as well as job creation and revenue generation.
- The enabling statute directs the Solid Waste Disposal Control Board to promulgate rules for a new waste reduction goal and to provide incentives, disincentives and penalties. This is being done through this rule promulgation process. Furthermore, this proposed rule amendment

language continues to build upon the material management accomplishments of the Solid Waste Management Act of 1991 and its amendments.

Comment: A respondent, commenting on subparagraph (2)(c) of Rule 1200-01-07-.09, was concerned that incinerated material from air-curtain destructors and pit burners would not count towards the proposed waste reduction goal. Allowing incineration to count as waste reduction may swap one type of pollution for another and should not be considered as a waste reduction option. The definitions of air-curtain destructors and pit burners should be added to the rules.

Response: Current statutory and regulatory language specifically states that incineration is equivalent to disposal in a Class I facility. However, air curtain destructors/pit burners are neutral because only the ash is disposed and waste reduction has taken place through volume reduction. Thus it neither helps nor hinders. The Solid Waste Disposal Control Board has ruled that air curtain destructors/pit burners are acceptable to use.

The definitions for air-curtain destructors and pit burners were not added to the rule since these terms are not used in the rule.

Comment: The State should make a list of specific materials that are acceptable for recycling that would count towards the recycling goal in paragraph (2) of Rule 1200-01-07-.09 to eliminate loopholes and provide more accurate accounting of materials.

Response: Paragraph (2) of Rule 1200-01-07-.09 describes the acceptable waste reduction methodologies. The County Recycling Report defines currently acceptable material that is the standard. Specific acceptable materials will be considered and incorporated into the Best Management Practices guidance described in subparagraph (2)(a) of Rule 1200-01-07-.09 as new materials or uses may be frequently updated. The Department will seek public participation in the development of Best Management Practices guidance document.

Comment: There is wide spread comment that emphasis should be placed in paragraph (2) of Rule 1200-01-07-.09 on promoting composting of food, general organic material, and yard trimmings.

Yard trimming bans and food waste bans should be implemented and those materials redirected to composting facilities.

Green house gas production from the disposal of food waste and yard trimmings in landfills could be reduced by diverting to composting facilities designed to beneficially recover the carbon.

There should be a differentiation between bio-solid composting and vegetative composting with relaxed regulations to promote vegetative composting.

Private industry (restaurants and grocery stores) should be required to compost organic materials.

Landfill fees should be increased to promote the redirection of materials to composting facilities.

Response: Approximately 12% of Tennessee's waste stream comes from food scraps according to the "2008 Tennessee Waste Characterization Study" by Tennessee State University. While it is agreed that food wastes should be diverted away from landfills to other beneficial uses, there are greater quantities of other materials within the waste stream that should be addressed first. The lack of support caused the food scrap diversion measure to fail. Best management practices describing composting and related activities will be included in guidance document described in subparagraph (2)(a) of Rule 1200-01-07-.09.

Landfill bans related to yard trimmings and food scraps were removed by the Solid Waste Advisory Committee due to lack of support. Local governments have the statutory authority to enact localized bans to meet their recycling goals.

Greenhouse gas emissions are not under the statutory authority of this rule package. However, the Division provides data to local governments through the ReTrac website based on EPA's W.A.R.M. model. Local government's specific information can be accessed based on submissions from the solid waste planning region's Annual Progress Report.

Current composting regulations address composting using bio-solids. These stringent requirements are not needed for composting of food scraps and the staff has referred suggested changes to regulatory programs for consideration.

Comment relating to increasing landfill fees will be considered in the future but are outside the scope and authority of this rule.

Comment: There is a concern that paragraph (3) of Rule 1200-01-07-.09 continues to promote the bureaucracy that surrounds solid waste management and waste reduction and only maintains the status quo with no real program improvements. Reporting and solid waste/waste reduction plans just continue the failure of the existing system.

Response: The Solid Waste Advisory Committee's Waste Reduction Task Force reviewed methodologies and recommended to the Department the one with the most merit and sustainability for Tennessee. There have been many successes since the Solid Waste Management Act of 1991 was enacted, improving the State's integrated solid waste management systems.

Comment: The waste reduction plan required in paragraph (2) of Rule 1200-01-07-.09 for solid waste facility permits as proposed does not detail adequately the requirement for implementation of the plan during the permitting process. The plan does not identify the responsible party for reviewing such plans. Furthermore, the Department should provide a "How to Guide" for facility permit applicants on preparing the facility waste reduction plans. Also, there is strong support for strengthening of the language that would change wording to "SHALL" instead of "strongly encourage" a waste reduction plan for solid waste facilities permits.

Response: Proposed subparagraph (2)(h) of Rule 1200-01-07-.09 has been removed from the rule.

Comment: For the development of the required solid waste and waste reduction plans in accordance with paragraph (3) of Rule 1200-01-07-.09, local governments are concerned about how preparation of these plans would be funded and if grants would be available to assist.

As new local governments are incorporated into the planning component of the rule, there are concerns over who will approve the plans and how they will be aggregated so as not to place one local government over another local government's planning.

There are related general concerns for recent updates to existing plans and how these updates will affect the new plans being required.

There are questions whether the plans are needed and may interfere with program development.

Response: The Department contracts with technical assistance providers for planning assistance to local governments in the preparation of their solid waste and waste reduction plans. The draft rule language regarding plan submittal has been revised.

Currently, the regional solid waste planning boards approve the regional solid waste plan. The local government solid waste and waste reduction plans would be approved through this same process and then aggregated into the municipal solid waste regional plan. The Department confirms completeness and compliance with applicable statutory and regulatory requirements related to content.

Smaller local governments can partner with existing county infrastructure through intergovernmental agreements. This partnership would be referenced in the region's municipal solid waste plan. The update to the solid waste plan is to address changes in goal requirements and any changing roles. After the plan is updated, the yearly submission of the Annual Progress

Report will continue to act as the yearly update to the plan. No quarterly update reports would be required unless the local government is subject to an enforcement action. Municipalities are currently reporting information for the Annual Progress Report.

Solid waste planning is essential to prepare for growth, provide collection assurance for the covered local government as well as ongoing material management.

Comment: The new goal and rule package would bring about a diminished role of the solid waste planning regions. Paragraph (3) of Rule 1200-01-07-.09 continues the bureaucratic concept of regions. These regions do not improve waste reduction efforts across the State.

Solid waste planning regions should be encouraged to increase public involvement.

Response: The function of the regional solid waste planning board has not changed. The regional solid waste planning board will still be the focal point of integrated solid waste management planning and provide region level aggregation of all covered local governments. The municipal solid waste regional plan would incorporate coordination of any services and provide a framework for the local governments efforts. Each local government would be accountable for their own waste streams and waste reduction activities.

Municipal solid waste planning regions are responsible for requiring public participation in solid waste planning.

Comment: Requiring in paragraph (4) of Rule 1200-01-07-.09 enterprise fund accounting for solid waste and recycling programs may not be feasible for smaller local governments that share resources between and within departments. There would be costs to convert to enterprise from special revenue funds.

Response: New population thresholds for the goal have been proposed. Thresholds should mitigate concerns noted for smaller governments while focusing efforts on the larger generators. Furthermore, smaller local governments can partner with existing county infrastructure through intergovernmental agreements as referenced in the municipal solid waste regional plan.

Only local governments considered "major covered local governments" would be required to use enterprise fund accounting. The rule provides a mechanism that allows local governments to request an exception from this requirement by the Commissioner.

According to the University of Tennessee Municipal Technical Advisory Service, converting to enterprise fund accounting would be minimal, as all local governments should be using the GASB-34 requirements for accounting which is the current standard in government accounting. These changes would provide local governments with the true cost of services that may be bid out, allowing the local government and the prospective contractor to have compatible methods of evaluating costs.

Comment: There were mixed concerns about the inclusion of enforcement and penalties contained in paragraph (5) of Rule 1200-01-07-.09. The rule may allow the State to use penalties as a revenue generating stream or may be too onerous for local governments.

Penalties should be strengthened and used to increase recycling efforts.

Enforcement action has not been taken previously.

Response: Prior to the 2007 amendments to the Solid Waste Management Act of 1991, the penalty was \$5,000 a day. The law was amended adding "up to" to give the ability to use lesser, more reasonable amounts based upon the issue.

As penalty amounts noted are stipulated in the Solid Waste Management Act of 1991 and are outside the scope of this rule; the law cannot be amended by this rule action and no further action will be taken.

The Solid Waste Management Fund was established by the Solid Waste Management Act of 1991 to fund initiatives outlined in the Act. Revenues for the fund are generated by the tipping fee surcharge on the waste entering class I landfills and predisposal fees on new tire sales. This has been the case since 1991. The law has not changed in regards to penalty assessment, and neither will the current practice.

The three levels of enforcement in the rule were designed to identify problems, needs, and define measures needed for the local government to achieve the waste reduction and recycling goal.

Each year the Department sends "Commissioner Warning Letters" to regions that have failed to submit their Annual Progress Reports in a timely manner or who have submitted incomplete reports. This number has steadily decreased since 2003. This letter spells out the regulatory actions and the timeline for compliance. Upon receipt of the letter the regions have always responded in a timely manner. There have been several instances where a region has not complied with the request and grant funds were withheld. The problems were resolved fairly quickly and in some cases the grant funding was restored. Qualitative assessments started in 2006 with regions that have failed to meet the 25% waste reduction/diversion goal. To date all have been determined to have made a good faith effort toward the goal and no penalties were needed.

Penalties will not be assessed unless all other means of compliance have been exhausted.

Comment: Clarification is needed in subparagraph (6)(b) of Rule 1200-01-07-.09 about which agency would be responsible for collecting waste reduction and recycling information and what that information would be, especially when multiple jurisdictions are involved in the activities/programs for which the data is being collected.

Blended waste loads may be attributed to one jurisdiction even though it comes from multiple sources.

Response: Methodologies in paragraph (2) of Rule 1200-01-07-.09 describe acceptable waste reduction methods. The methods provide for waste reduction though they may not be easily quantifiable individually, but show up in the overall disposal tonnage reduction.

Each covered local government will be responsible for collecting information relative to efforts over which they have control. Some overlap of materials is common in any system but should be minimized through procedural methods.

Comment: A cost analysis is needed to demonstrate how Rule 1200-01-07-.09 would affect covered local governments.

Response: The Secretary of State requires a financial impact note to be included with every rule that is promulgated when filed.

Recycling continues to show significant cost avoidance of disposal tipping charges (on average \$32.00/ton) as well as generation of revenue for marketed recycled material. Studies from multiple agencies including EPA, the Institute for Local Self Reliance, etc. show that recycling efforts create jobs and sustain higher waged positions compared to disposal activities. Each covered local government may choose which materials to market based on local economic factors to reach the waste reduction and recycling goal. This rule does not mandate any specific recycling program.

Existing solid waste and recycling systems should be leveraged by local governments to the maximum extent possible to handle any increases to the waste stream. A recent survey by Department staff show that local systems are capable of handling up to 30% more material without exhausting existing system potential.

- Comment: Many of the points in Rule 1200-01-07-.09 appear to place an “unfunded mandate” on local governments. This is especially burdensome to the small local governments that may not have solid waste or reduction infrastructure in place to meet the demands of the goal. In depressed economic times a recycling mandate may cost local governments money that is needed in other areas, creating a hardship.
- Response: Current local infrastructures are adequate to start the process toward goal attainment. Municipalities may want to partner with each other or work with the county to maximize savings especially on capital projects. The new population threshold increase provides relief for those smaller local governments with limited infrastructure from goal performance requirements and looks at availability of services in a qualitative manner.
- Grant funds are available from the Solid Waste Management Fund and other federal, state and local agencies, in addition to partnering with private enterprise to aid in funding infrastructure projects for local governments.
- Waste reduction activities, when implemented using the Best Management Practices, provide economic growth for the region. Also, waste reduction efforts avoid landfill disposal charges (on average of \$32.00/ton tipping fee only, not the cost of solid waste transport and disposal) and may provide neutral or positive cash flow. EPA cites studies that show composting, recycling or reuse create more jobs than disposal. This increase in jobs provides increased economic power to the local governments and broadens the tax base.
- Comment: Rule 1200-01-07-.09: It has been suggested that household hazardous waste events be increased and Rule 1200-01-07-.09 be amended in the four-tier table to reflect frequency of household hazardous waste mobile events.
- Response: The four tier goal and table have been removed and will be included in the proposed Best Management Practice guidance document as noted in subparagraph (2)(a) of Rule 1200-01-07-.09. Review of suggested changes may be incorporated during the development of the Best Management Practice guidance document.
- Comment: Increased efforts to promote product stewardship should be included in Rule 1200-01-07-.09 to bring producers of waste materials into the waste reduction process.
- Response: The product stewardship initiatives will take additional legislative action. There are many organizations that currently work on these initiatives at all level of government (example: Product Stewardship Institute). Product stewardship efforts should be coordinated through this type of organization.
- Comment: Municipal Solid Waste Planning Region staff should be required in Rule 1200-01-07-.09 to have a minimum number of hours of training to better develop their understanding of best management practices and social marketing to the public.
- Response: Current statutory requirements require only landfill operators to have specific training. Any addition to this would have to be achieved through legislation. Many solid waste professionals and local government officials are currently members of industry and trade organizations that give access to continuing education opportunities. These and other organizations offer voluntary continuing education and certifications relating to solid waste, recycling, and materials management. These courses are widely available.
- Local government solid waste professionals routinely offer solid waste and waste reduction education to the public. These efforts are reported yearly in the Municipal Solid Waste Planning Region’s Annual Progress Report.
- Comment: Grant funding should be available to help with solid waste planning, program implementation and infrastructure needs relative to attaining the goal.

- Response: The Department contracts with technical assistance providers for planning assistance to local governments in the preparation of their solid waste and waste reduction plans. The draft rule language regarding plan submittal has been revised.
- The Department will continue to issue grants and rebates for equipment and technical assistance for solid waste related issues as funds are available.
- Periodically grants for capital improvement projects are extended. As municipalities start working toward the goal, the plan is to increase grant opportunities with funding availability.
- Comment: Increase tipping fees to help promote the reduction of solid waste going to landfills, discourage disposal practices, and promote recycling and composting of materials destined for disposal.
- Response: Landfill fees may be considered in the future but are outside the scope of this rulemaking.
- Comment: Container deposit legislation would be beneficial to promote recycling and help attain a recycling goal.
- Response: Legislation would be outside the scope of this rulemaking. This concept has been reviewed by the Solid Waste Advisory Committee and its Task Force but was not incorporated into their recommended concepts.
- Comment: Material bans for landfills should be reinstated in the proposed draft rule language and implemented in a much more aggressive timetable than originally proposed.
- Although the language had been removed prior to presentation of the rules, several asked that material bans be removed from the rules.
- Response: After thorough discussion landfill bans were removed by the Solid Waste Advisory Committee due to lack of support.
- Local governments have the statutory authority to enact localized bans to meet their recycling goals.
- Comment: Regulations should be added that facilitate the composting of vegetative material compared to bio-solid composting.
- Response: Current composting regulations address composting using bio-solids. These stringent requirements are not needed for composting of food scraps and the staff has referred suggested changes to regulatory programs for consideration.
- Approximately 12% of Tennessee's waste stream comes from food scraps according to the "2008 Tennessee Waste Characterization Study" by Tennessee State University. While it is agreed that food wastes should be diverted away from landfills to other beneficial uses, there are greater quantities of other materials within the waste stream that should be addressed first. The lack of support caused the food scrap diversion measure to fail. Best management practices describing composting and related activities will be included in guidance document described in subparagraph (2)(a) of Rule 1200-01-07-.09.
- Comment: As this rule covers many areas related to solid waste many general comments that related to the topic but are not specifically within the scope of the rule were presented. These topics include radioactive materials, BSFR program, regulatory enforcement of landfills, air pollution, beverage container legislation, product stewardship, green house gases, authority of promulgation, and very general comments.
- Response: Radioactive materials, landfill enforcement, and BSFR program are already addressed by others or in the regulatory section of the rule and fall outside the scope of this rulemaking.

The 2007 Amendments to the Solid Waste Management Act of 1991 authorize the goal to be set by rule. The rule making process is defined by the Secretary of State's office and has been followed in the promulgation process of this rule amendment package. Public participation and the comment process provide the opportunity to identify shortcomings and make changes during promulgation.

New and pending legislation including the beverage container deposit bill and product stewardship fall outside the scope of this rulemaking and must be addressed by the Legislature.